

Case No. 4:06-CR-106
Gwin, J.

his lawyer failed to adequately explain federal sentencing law or to obtain a plea deal for him. [[Doc. 84.](#)] As a threshold matter, as explained above, Ballard waived this ineffective assistance argument by failing to timely object to the magistrate judge's R&R. [[Doc. 83.](#)] Additionally, because Ballard's affidavit does not purport to show that his sentence would have been different under any plea agreement his lawyer might have obtained, the affidavit fails to make his ineffective assistance argument viable on the merits. [[Doc. 84-1.](#)] Thus, the Court **DENIES AS MOOT** Ballard's motion for leave to file an affidavit in support of his § 2255 motion.

IT IS SO ORDERED.

Dated: July 27, 2010

s/ *James S. Gwin*
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE